

REMARKS

In response to the Office Action mailed November 3, 2003, the Applicant respectfully requests reconsideration.

Claims 1-11, 24, 26, 27, 30, 31, 34-43 and 46-57 are allowed. Claims 13-18 and 21-23 are objected to. Claims 12, 19, 44 and 45 are rejected. Of the rejected claims, claims 12, 19 and 44 are independent claims. Applicants respectfully disagree with the rejection.

Claim 12

Claim 12 is rejected under §103 based on Eichen et al in view of Posthuma et al. Claim 12 recites performing one ended electrical measurements on a proxy line and predicting a data rate for the customer line from these measurements. As stated in the claim, the proxy line is in a cable carrying the customer line. The specification describes this method as being useful where measurements cannot be made on the customer line. One example is where a new customer would like service but the customer line has not yet been connected to the network.

The Examiner states that this concept is described in Eichen at column 6, line 21-46. Applicants respectfully disagree. That passage specifically references that the test may not be performed if the loop is not a working pair. That statement appears at column 6, line 32 and is repeated at column 6, line 44. Use of a proxy line is intended to allow a test, even if the loop is not a working pair. Eichen therefore does not teach or suggest a proxy line.

Posthuma does not teach the missing claim elements. As understood, Posthuma describes that a test unit can get access to a line for testing by initiating and then terminating a call. For this technique to work, the customer line being tested is necessarily connected to the network. Therefore, the reference provides no teaching or suggestion to use a proxy line. Accordingly, claim 12 cannot be said to be obvious based on the references.

Claim 19

Claim 19 also recites performing electrical measurements on a proxy line. The Examiner has indicated that this feature is found in Eichen. As indicated above, Applicants respectfully disagree that Eichen teaches the claimed feature and contend that Eichen actually teaches a contrary approach.

Accordingly, claim 19 cannot be said to be obvious in light of the references.

Claim 44

Claim 44 is rejected under §103 based on Beierle in view of Bjork et al. Claim 44 has been amended to more specifically recite that the customers telephony line is being tested through a switch. Measurements are made through the switch in a lower frequency range and used to predict an attenuation in a higher frequency range. The claim recites that this prediction is made using a logical decision tree that has been derived by data mining to adjust values of frequency dependent attenuation for an average telephony line. Applicants disagree that the references teach or suggest the claimed features.

As understood, Bjork specifically relates to a time domain reflectometer. It is known in the art that many switches will have limited frequency responses. Because time domain reflectometry relies on high frequency components in a test signal the reference, the reference indicates that the line is disconnected from the switch for testing. (See column 2, line 58.)

Beierle does not teach the missing elements of the claim. As understood, Beierle relates to qualifying lines for digital transmissions based on the length of the line. The reference measures capacitance to determine the length of the line. The reference teaches a specific frequency at which the capacitance should be measured. It does not teach all the limitations of the claim, such as: measurements performed at a plurality of frequencies, processing the measurements by a set of logical decision trees, deriving decision trees by data mining, or adjusting the values of a frequency dependent attenuation based on results from the logical decision trees. Accordingly, claim 40 cannot be said to be obvious in light of the references.

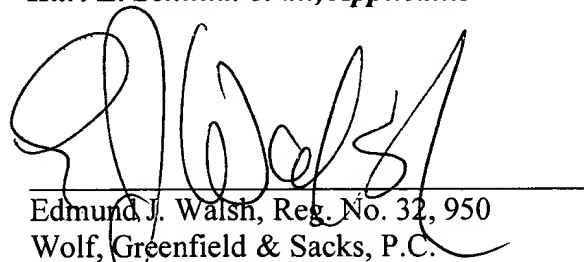
CONCLUSION

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted
Kurt E. Schmidt et al., Applicants

By:



Edmund J. Walsh, Reg. No. 32, 950
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2211
Tel. No.: (617) 720-3500
Attorney for Applicant

Docket No.: T0529.70015US00
Date: March 2nd 2004
x03/03/2004x